

United States Court of Appeals
For the Eighth Circuit

No. 13-3404

United States of America,

Plaintiff - Appellee,

v.

Michael Lee Vibbard,

Defendant - Appellant.

Appeal from United States District Court
for the Northern District of Iowa - Ft. Dodge

Submitted: May 28, 2014

Filed: June 5, 2014

[Unpublished]

Before BYE, COLLOTON, and BENTON, Circuit Judges.

PER CURIAM.

Michael Vibbard appeals the sentence imposed by the district court¹ after he pleaded guilty to a child-pornography offense. His counsel has moved to withdraw,

¹The Honorable Mark W. Bennett, United States District Judge for the Northern District of Iowa.

and has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that Vibbard's below-Guidelines-range sentence is substantively unreasonable, and that enforcement of an appeal waiver in Vibbard's plea agreement would result in a miscarriage of justice.

Upon careful review of the record, we enforce the appeal waiver. See United States v. Andis, 333 F.3d 886, 889-92 (8th Cir. 2003) (en banc). We are satisfied that Vibbard entered into both the plea agreement and the appeal waiver knowingly and voluntarily, as demonstrated by his sworn responses to the district court's questions during the change-of-plea hearing. See Nguyen v. United States, 114 F.3d 699, 703 (8th Cir. 1997). In addition, we conclude that the issues raised in this appeal fall within the scope of the appeal waiver, and that no miscarriage of justice would result from enforcing the waiver. Finally, having reviewed the record independently under Penson v. Ohio, 488 U.S. 75 (1988), we find no non-frivolous issues outside the scope of the waiver. Accordingly, this appeal is dismissed, and we grant counsel leave to withdraw.
